

SUBSTITUTE JOINT DECLARATION FOR PATENT APPLICATION

As the below named inventors, we hereby declare that:

Our residence, post office address and citizenship are as stated below next to our names:

We believe we are the original, first and joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled SUBTLE MITOCHONDRIAL MUTATIONS AS TUMOR MARKERS, the specification of which

- ☒ is attached hereto,
was filed on August 20, 1999 as Application Serial Number 09/377,856 and was amended on _____ (if applicable).
☐ was filed under the Patent Cooperation Treaty (PCT) and accorded International Application No. _____, filed _____, and amended on _____ (if any).

We hereby state that we have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

We hereby acknowledge the duty to disclose information which is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56(a).

Prior Foreign Application(s)

We hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Country	Application No.	Date of Filing (day month year)	Date of Issue (day month year)	Priority Claimed Under 35 U.S.C. §119

Prior United States Provisional Application(s)

We hereby claim priority benefits under Title 35, United States Code, §119(e)(1) of any U.S. provisional application listed below:

U.S. Provisional Application No.	Date of Filing (day month year)	Priority Claimed Under 35 U.S.C. §119(e)(1)
60/097,307	08/20/98	Yes

Prior United States Application(s)

We hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Application Serial No.	Date of Filing (Day, Month, Year)	Status X Patented, Pending, Abandoned

Power of Attorney

And we hereby appoint, hold jointly and severally, as our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the following at attorneys and agents, their registration numbers being listed after their names:

ALTHECK, Robert R.	31,810	HONG, Patricia E.	34,373	NELSON, Jon O.	34,560
BANNER, Donald W.	17,037	HOSCHKEIT, Dale H.	19,090	NIGOWSKI, James A.	29,331
BANNER, Marc J.	29,888	HYMEL, Lin L.	45,414	PATEL, Bimal J.	42,167
BANNER, Pamela J.	31,664	IRVING, John P.	34,826	PATHAK, Ajay S.	35,260
BRECK, Matthew P.	45,804	JACKSON, Thomas H.	19,805	PETERSON, Thomas L.	30,369
BECKETT, William W.	18,762	KAGAN, Sarah A.	32,141	POTENZA, Joseph M.	25,178
BERCHAMMER, Joseph J.	46,057	KATZ, Robert S.	26,402	PRATT, Thomas K.	37,210
BODNER, Jordan	42,338	KLEIN, William J.	43,719	RENK, Christopher J.	37,761
BURTON, Scott A.	42,173	KRAUSE, Joseph P.	32,578	RESIS, Robert H.	32,168
CALLAHAN, Patrick V.	29,095	LINEK, Ernest V.	28,822	RIVARD, Paul M.	43,446
CHANG, Peter S.	42,402	MALEONE, Dale A.	32,145	ROBINSON, Douglas W.	22,751
COHAN, Gregory J.	40,939	MANNAVA, Ashutosh K.	45,301	SCHAD, Steven P.	32,150
COHEN, Marc S.	34,143	MAPLE, Marc-Cliff B.	37,588	SHIPLEY, Charles W.	28,042
CURTIN, Joseph P.	34,571	MAY, Steven A.	41,012	SHULL, Jason	47,083
DAVID, Michael	44,642	MCDERMOTT, Peter D.	29,411	SKERFON, Joseph M.	29,864
DEMOORE, Laura J.	19,654	MEKEB, Christopher L.	32,384	STOCKLEY, D. J.	34,257
EVANS, Thomas J.	15,803	NEKE, Edward F.	17,335	VAN ES, J. Peter	37,746
FLORACCHIO, Gary D.	35,509	NEDLOCK, Nina L.	29,473	WITCOFF, Shelton W.	17,397
FROGLSON, Christine A.	40,877	NEECE, Timothy C.	32,543	WOLFF, Franklin D.	19,722
FICKLER, Debra A.	46,695	NEEKER, Frederic M.	35,282	WOLFF, Susan A.	33,550
FISHER, William J.	22,121	MILLER, Charles L.	43,805	WRIGHT, Bradley C.	38,061
GUMETUCK, Christopher R.	38,800	MITCHELL, James V.	43,805		
HAMILTON, Ryan E.	40,149	MORENO, Christopher P.	38,566		
KIMMENDIGER, Lisa M.	41,653	MOTTLEY, Darrell G.	42,912		

All correspondence and telephone communications should be addressed to:

Banner & Witcoff, Ltd.
Customer Number: 22907 (WDC)

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature _____ Date _____
Full Name of First Inventor: POLYAK Kemelia
Family Name: _____ First Given Name: _____ Second Given Name: _____
Residence: Roslindale, MA Citizenship: Hungarian
Post Office Address: 25 Fairview Street, Roslindale, MA 02131

Signature Rein Date 9/30/01
Full Name of Second Inventor: VOGELSTEIN Bert
Family Name: _____ First Given Name: _____ Second Given Name: _____
Residence: Baltimore, Maryland Citizenship: United States of America
Post Office Address: 3700 Brion Way, Baltimore, Maryland 21208

Signature Kenneth W. Kinzler Date 10/2/01
Full Name of Third Inventor KINZLER Kenneth W.
Family Name First Given Name Second Given Name
Residence Beth Air, Maryland Citizenship United States of America
Post Office Address 1403 Hallmark Way, Beth Air, Maryland 21015

10053611.012402

PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of

Attorney Docket No. 01107.82346

Kornelia POLYAK et al.

Group Art Unit: 1655
Examiner: C. Wilder

Serial No. 09/377,856

Filed: August 20, 1999

BATCH No. M76

For: SUBTLE MIOCHONDRIAL MUTATIONS AS TUMOR MARKERS

SUBMISSION OF SUBSTITUTE DECLARATION

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

Submitted herewith two identical Declarations: the first executed by the named inventor Kornelia Polyak; the second by the named inventors Bert Vogelstein and Kenneth Kinzler. These two declarations are to be considered as a single Joint Substitute Declaration.

Applicants request that the attached Substitute Declaration replace the originally filed Declaration in the above-subject U.S. patent application, since the originally filed Declaration erroneously claimed benefit from prior United States application 60/377,856 filed August 20, 1999, when, in fact, the benefit should have been from serial number 60/097,307, filed August 20, 1998. "The errors in the originally filed declaration were typographical errors." The Substitute Declaration further updates the residence address of Kornelia Polyak, which has changed since the filing of the original Declaration.

The undersigned believes that no additional fees are involved in filing this Substitute Declaration. However, if necessary, the Commissioner is hereby authorized to charge any additional fees to Deposit Account 19-0733.

Respectfully submitted,

By: Lin J. Hymel
Lin J. Hymel
Registration No. 45,414

Dated: 10-26-01

BANNER & WITCOFF, LTD.
1001 G Street, N.W.
Eleventh Floor
Washington, D.C. 20001

Banner & Witcoff Ref. No:
Client Ref. No.

01107 82346
DM-3449

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BANNER, Donald W.	17,537	MOSCHETTI, Dale H.	19,080	NIRBOWSKI, James A.	21,531
BANNER, Mark T.	29,883	HYMEL, Lir J.	45,414	PATEL, Bimal J.	42,062
BANNER, Patricia L.	33,644	WATKINS, John P.	34,628	PATEL, Ajay S.	35,256
BECKER, Matthew P.	45,824	JACKSON, Thomas H.	29,808	POTENSON, Thomas L.	30,969
BECKETT, William W.	18,268	KADAN, Sarah A.	32,141	POTENZA, Joseph M.	24,175
BERONANMER, Joseph J.	46,057	KATZ, Robert S.	36,402	PRATT, Thomas K.	37,210
BODNER, Jordan	42,236	KLEIN, William J.	43,719	RENEK, Christopher J.	33,761
BURROW, Scott A.	42,575	KRAUSE, Joseph P.	29,822	REISS, Robert H.	32,168
O'LLAHAN, James V.	30,095	LINEK, Ernest V.	32,576	RIVARD, Paul M.	43,440
CHANG, Steve E.	42,402	MAIONE, Dale A.	32,155	ROBINSON, Douglas W.	32,751
COHAN, Gregory J.	40,959	MANNAYA, Ashok K.	45,201	SCHAD, Steven P.	32,550
COOPERMAN, Marc S.	34,143	MARLE, Marie-Claire B.	37,588	SCHMIDT, Charles W.	28,242
CURTIN, Joseph F.	34,571	MAY, Steven A.	44,912	SHULL, Jason	47,045
DAVID, Michael	44,542	MEDERMOTT, Peter D.	29,411	SKEPPON, Joseph M.	29,864
DeMOOR, Laura J.	33,654	McKEE, Christopher L.	32,384	STOCKLEY, D. J.	34,257
EVANS, Thomas L.	35,805	McKEE, Edward F.	29,673	VAN ES, J. Pieter	37,746
FEDOROVICH, Gary D.	35,509	MEDLOCK, Nina L.	38,553	WITCOFF, Stephen W.	17,599
FERGUSON, Catherine A.	40,877	MEECE, Timothy C.	25,282	WOLFFE, Franklin D.	19,724
FICKLER, Debra A.	46,599	MEEKER, Frederic M.	43,805	WOLFFE, Susan A.	33,568
FISHER, William I.	32,113	MILLER, Charles L.	43,808	WRIGHT, Bradley C.	38,061
GLEBOCKI, Christopher R.	38,800	MITCHELL, Janice V.	38,566		
HANLON, Brian E.	40,449	MORENO, Christopher P.	42,912		
HEMENDINGER, Lisa M.	42,653	MOTTLEY, Darrell G.			

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Signature [Signature] Date 10/2/01
Full Name of First Inventor POLYAK Family Name Kornish First Given Name Second Given Name
Residence Boston, MA BROOKLINE, MA Citizenship Hungarian
Post Office Address 36 Fairview Street, Brookline, MA 02141 1856 BEACON ST. APT 6F BROOKLINE, MA 02445 * KP 10/2/01

Signature [Signature] Date
Full Name of Second Inventor VOGELSTEIN Family Name Bari First Given Name Second Given Name
Residence Baltimore, Maryland Citizenship United States of America
Post Office Address 3700 Breston Way, Baltimore, Maryland 21208

Signature _____ Date _____
Full Name of Third Investor KINZLER Kenneth W
Family Name First Given Name Second Given Name
Residence Belt Air, Maryland Citizenship United States of America
Post Office Address 1402 Belkirk Way, Belt Air, Maryland 21015

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